

## RECOVERY BY THE STATE, AND SETTLEMENT OF LAND-RELATED COMPLAINTS

### THE GOVERNMENT

*Pursuant to the December 25, 2001 Law on  
Organization of the Government;*

*Pursuant to the November 26, 2003 Land Law;*

*At the proposal of the Minister of Natural  
Resources and Environment and the Minister of  
Finance,*

### DECREES:

#### *Chapter I*

### GENERAL PROVISIONS

#### *Article 1.- Scope of regulation*

1. This Decree additionally stipulates some cases of grant of land use right certificates, house ownership and residential land use right certificates (below collectively referred to as certificates); some cases of exercise of land users' rights; recovery of land and land-related compensation and support; order and procedures for land recovery, compensation, support and resettlement upon land recovery by the State for defense and security purposes or for the sake of national interests, public interests and economic development, and settlement of land-related complaints.

2. The grant of certificates, recovery of land, exercise of land users' rights, compensation, support and resettlement upon land recovery by the State, and settlement of land-related complaints which are not stipulated in this Decree comply with current regulations.

#### *Article 2.- Subjects of application*

**DECREE No. 84/2007/ND-CP OF MAY 25,  
2007, ADDITIONALLY STIPULATING THE  
GRANT OF LAND USE RIGHT  
CERTIFICATES, RECOVERY OF LAND,  
EXERCISE OF LAND USE RIGHTS,  
ORDER AND PROCEDURES FOR  
COMPENSATION, SUPPORT AND  
RESETTLEMENT UPON LAND**

1. Agencies performing the function of state management of land and agencies, organizations and individuals involved in land administration.

2. Land users and organizations and individuals involved in land use.

### *Chapter II*

#### **SPECIFIC PROVISIONS ON SOME CASES OF EXERCISE OF LAND USE RIGHTS AND GRANT OF CERTIFICATES**

**Article 3.**– Land used in a stable manner stated in Clause 4, Article 50 of the Land Law

1. Land used in a stable manner stated in Clause 4, Article 50 of the Land Law is land meeting one of the following criteria:

a/ Land has been used continuously for a certain purpose from the time it starts to be used for this purpose to the time it is granted a certificate or to the time a land recovery decision is issued by a competent state agency, if the certificate is not granted yet;

b/ Land has been used continuously under Point a of this Clause and its user has been changed but this change does not give rise to a dispute over land use rights.

2. The starting time of land use in a stable manner is determined on the basis of the date and purpose of use shown on one of the following papers:

a/ Agricultural land use tax or house and land tax receipt;

b/ Written record of or decision on sanctioning of administrative violation related to land use or decision on sanctioning of administrative violation related to construction of works attached to land;

c/ Effective court decision or judgment, enforced decision of a judgment enforcement body on assets attached to land;

d/ A competent state agency's effective decision on settlement of land dispute; written record of land dispute conciliation bearing the signatures of the involved parties and certification of a representative of the People's Committee of the commune, ward or township (below collectively referred to as commune-level People's Committee) where the land exists;

e/ A competent state agency's decision on settlement of land-related complaint or denunciation;

f/ Papers on permanent residence registration or long-term temporary residence in the house attached to residential land; people's identity card or birth certificate showing the address of the house related to the land plot;

g/ Paper on the hand-over, distribution or allocation of the land or house, issued by an agency or organization assigned by the State to manage and use land;

h/ Paper on the purchase and sale of the house or another asset attached to land or paper on the sale and purchase of land or transfer of land use rights, bearing the signatures of the involved parties (certification of an agency or organization is not required);

i/ Land maps, inventory book, survey and measurement records of different periods;

j/ House and land registration declaration bearing certification of the commune-level People's Committee at the time of registration declaration.

3. If the starting time of land use shown on various papers listed in Clause 2 of this Article is inconsistent, the starting time of land use in a stable manner shall be determined according to the paper showing the earliest starting date of land use.

4. If none of papers listed in Clause 2 of this Article is available or these papers do not show the time of their making and the land use purpose,

there must be certification of the commune-level People's Committee of the starting time of land use and the land use purpose on the basis of collected opinions of residents living together with the person requesting certification at the starting time of land use in the residential area (hamlet, village or street population group) where the land exists.

**Article 4.-** Time of determining financial liability upon submission of dossiers of application for certificates or permission for land use purpose change, land allocation or lease

1. For economic organizations, households or individuals that have been allocated land with payment of land use levy or leased land by a competent state agency, their financial liability shall be determined according to the land policy and price applicable at the time of issuance of the land allocation or land lease decision; if the time of hand-over of land does not coincide with the time stated in the land allocation or land lease decision, the financial liability shall be determined according to the land policy and price applicable at the time of actual hand-over of land.

2. When the land user who submitted a complete and valid dossier of application for a certificate or for permission for land use purpose change to a competent state agency before January 1, 2005 (the date on which new land prices are applied under Decree No. 188/2004/ND-CP of November 16, 2004, on methods of determining land prices and price frames of different types of land - Decree No. 188/2004/ND-CP) has to resubmit or supplement the dossier because the functional agency delayed the carrying out of procedures or provided improper guidance on compilation of the dossier, declaration forms were modified or the competence to grant certificates or permit land use purpose change was changed, the land user's financial liability shall be determined at the time of submission of the dossier.

3. When the land user submits the dossier of application for a certificate or for permission for land use purpose change to a competent state agency on or after January 1, 2005, the land user's financial liability shall be determined according to the land price decided by the provincial-level People's Committee at the time of submission of a complete and valid dossier. If the functional agency delayed the carrying out of procedures or provided improper guidance on compilation of the dossier, the dossier submitter may complain about the act of delaying the processing of dossiers; public employees or servants who delay the processing of dossiers or give improper guidance on compilation of dossiers shall be disciplined under Article 175 of the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law (Decree No. 181/2004/ND-CP); the dossier submitter's financial liability toward the State shall be determined at the time of submission of a complete and valid dossier.

4. Based on the dossier receipt register or dossier receipt, the land use right registration office or the commune-level People's Committee that receives the dossier shall certify in writing the time the land user submits a complete and valid dossier under Clause 2 of this Article, and send its written certification to the tax office as a basis for calculating the land user's financial liability.

**Article 5.-** Acknowledgment of land use levy debts

1. For households or individuals that cannot afford to pay land use levy to the State under Clause 4, Article 5 of the Government's Decree No. 17/2006/ND-CP of January 27, 2006, amending and supplementing a number of articles of the Decrees guiding the implementation of the Land Law and the Government's Decree No. 187/2004/ND-CP on conversion of state companies into joint stock companies (Decree No. 17/2006/

ND-CP), and households and individuals that are allocated by the State land for resettlement and wish to owe land use levy, they may acknowledge land use levy debts on their certificates after filing applications therefor together with dossiers of application for certificates or for permission for land use purpose change or dossiers of hand-over of land for resettlement. When paying debts, land users shall pay them at the land price applicable at the time of debt payment and have land use levy debts acknowledged on their certificates written off.

2. When paying land use levy debts under Clause 1, Article 17 of the Government's Decree No. 198/2004/ND-CP of December 3, 2004, on collection of land use levy (Decree No. 198/2004/ND-CP), land users shall pay land use levy debts at the land price applicable at the time of grant of a certificate; when paying land use levy debts under Clause 4, Article 5 of Decree No. 17/2006/ND-CP, which are acknowledged before the effective date of this Decree, land users shall pay them in the amounts acknowledged on their certificates.

3. The Ministry of Natural Resources and Environment and the Ministry of Finance shall guide the order and procedures for acknowledging and paying debts.

**Article 6.-** Addition of procedures for permission for land use purpose change with respect to land with attached public assets

For land with attached public assets managed by central state agencies or state enterprises, the People's Committees of provinces or centrally run cities (below collectively referred to as provincial-level People's Committees) may decide to permit land use purpose change only after obtaining written agreement of the Ministry of Finance with the permission for the use of those public assets for another purpose.

**Article 7.-** Land use levy exemption and

reduction upon grant of certificates to people who have rendered meritorious services to the Revolution

Land use levy exemption and reduction for people who have rendered meritorious services to the Revolution shall be effected in accordance with the law on preferential treatment to these people.

**Article 8.-** Grant of certificates for agricultural production land

1. After completing the implementation of the final plan on swapping and consolidating agricultural land plots, the People's Committees of districts, towns or provincial cities (below collectively referred to as district-level People's Committees) shall withdraw the certificates already granted for many land plots and grant new ones for each land plot under Clause 3, Article 48 of the Land Law.

2. In localities where the final plan on swapping and consolidating agricultural land plots has not yet been completed, if it is requested by households or individuals using these land plots, district-level People's Committees shall grant a single certificate for land plots under the use right of one household or individual; after the implementation of the final plan on swapping and consolidating land plots is completed, certificates shall be granted under Clause 1 of this Article.

3. The Ministry of Natural Resources and Environment shall guide the grant of certificates under Clause 2 of this Article.

**Article 9.-** Grant of certificates in the case of using agricultural land for building farms in rural areas

1. When granted a certificate for rural farm land, the land user is not required to pay land use levy for changing the land use purpose from agricultural production land, forest land, aquaculture land or salt production land to another

type of agricultural land in the following cases:

a/ Building glasshouses and other types of house for cultivation purposes, including forms of cultivation not directly on land;

b/ Building stables for cattle, poultry or other animals permitted by law;

c/ Building plant and animal seed nurseries;

d/ Building storehouses of agricultural products, plant protection drugs, fertilizers, or agricultural production machines and tools used in the farm.

2. When changing the land use purpose from land under annual crops other than land specialized in wet rice, land under perennial trees, aquaculture land or land with production forests being plantation forests to another type of agricultural land under Point a, b, c or d, Clause 1 of this Article, or from land specialized in wet rice to land for building a rice variety nursery, the farmland user shall register the land use purpose change under Clause 2, Article 36 of the Land Law.

**Article 10.-** Grant of certificates for land used by population communities or religious establishments

1. The order and procedures for granting certificates to population communities are similar to those applicable to households and individuals specified in Article 135 and Article 136 of Decree No. 181/2004/ND-CP.

2. The order and procedures for granting certificates to religious establishments are similar to those applicable to organizations specified in Article 137 of Decree No. 181/2004/ND-CP.

3. Land that is used by a religious establishment for agricultural production, silviculture or non-agricultural production and business or charity activities and land used by a religious establishment under Clause 1, Article 99 of the Land Law (including land transferred

or donated before July 1, 2004) and is certified by the commune-level People's Committee to be dispute-free may be granted a certificate and be used under the land use regime corresponding to its use purpose as applicable to households and individuals, and may be used for another purpose as decided by the provincial-level People's Committee; for land used for agricultural production, silviculture, non-agricultural production and business or charity activities of a religious establishment which is other than land allocated by the State without collection of land use levy, land users may transfer and donate their land, lease their land use rights, and mortgage and guarantee with their land use rights in accordance with the land law.

**Article 11.-** Grant of certificates in the case where land use rights have been transferred but transfer procedures have not yet been carried out according to regulations

1. When the current user of land acquired from transfer, inheritance or donation of land use rights or a house associated with residential land use rights (below referred to as right transferee) before July 1, 2004, was not granted a certificate but has a paper on the land use right transfer bearing the signature of the transferor (without certification of a competent agency of the transfer), he/she is not required to carry out land use right transfer procedures and shall submit a dossier of application for a certificate under Clause 1, Article 135 or Clause 1, Article 136 of Decree No. 181/2004/ND-CP.

2. In the case of transfer of land use rights or a house associated with residential land, if the involved parties have made a transfer contract or paper but the transferor fails to submit the certificate or one of land use right papers specified in Clause 1 and Clause 5, Article 50 of the Land Law (below referred to as land use right papers), in order to carry out land use right transfer procedures, the following provisions shall be

complied with:

a/ In order to be granted a certificate, the right transferee shall submit a dossier comprising an application for a certificate and the transfer contract or paper; the place of receipt of dossiers is defined in Article 122 of Decree No. 181/2004/ND-CP;

b/ The land use right registration office shall base itself on the transfer contract or paper to send a written notice to the transferor and post it up at the office of the commune-level People's Committee of the place where the land exists on the carrying out of procedures for the grant of a certificate to the transferee and the cancellation of land use right papers not yet handed over to the transferee, if the whole land area is transferred; on the carrying out of procedures for the grant of a certificate to the right transferee and the adjustment of the certificate or the grant of a new one, if part of the land area is transferred; if the address of the transferor is unknown, the notice must be published on three consecutive issues of a local newspaper (the publishing cost is borne by the applicant).

c/ After 30 days since the date of notification or publishing of the notice on a local newspaper on the carrying out of procedures for the grant of a certificate to the right transferee, if there is no written request for dispute settlement, the procedures for the grant of a certificate shall be carried out under Article 135 or Article 136 of Decree No. 181/2004/ND-CP or under the house law; the People's Committee competent to grant certificates shall issue a decision to cancel the certificate already granted to the transferor, if the latter fails to turn in the certificate, or shall adjust the certificate or grant a new one, if the transferor turns in the certificate, under the guidance of the Ministry of Natural Resources and Environment;

In case of a written request for dispute settlement, the land use right registration office shall guide the requester to file the request with

the state agency competent to settle disputes defined in Article 135 or 136 of the Land Law.

**Article 12.-** Grant of certificates in the case the land user dies before the hand-over of a certificate

If the individual who signs the dossier of application for a certificate dies before the hand-over of a certificate, the land use right registration office shall report the case to the district-level People's Committee for canceling the signed certificate and ask the heir to supplement the dossier under Point a, Clause 1, Article 151 of Decree No. 181/2004/ND-CP so as to be granted a certificate.

**Article 13.-** Certificates in the case the land use right heir is a foreigner or an overseas Vietnamese who is ineligible for buying houses associated with residential land use rights

1. If all of the heirs of the rights to use land or land and assets attached to land (in this Article collectively referred to as land use rights) are foreigners or overseas Vietnamese who are ineligible for buying houses associated with residential land use rights in Vietnam under Clause 1, Article 121 of the Land Law and Clause 2, Article 126 of the Housing Law (in this Article referred collectively as overseas Vietnamese who are ineligible for buying houses associated with residential land use rights in Vietnam), these heirs are not entitled to the grant of a certificate but may transfer or donate the inherited land use rights under the following provisions:

a/ In case of transferring land use rights, the transfer order and procedures shall be carried out under Article 148 of Decree No. 181/2004/ND-CP, with the heir signing in the capacity as transferor the land use right transfer contract;

b/ In case of donating land use rights, the donee must be the one defined in Clause 6, Article 113 of the Land Law and Clause 2, Article 126 of the

Housing Law; the donation order and procedures shall be carried out under Article 152 of Decree No. 181/2004/ND-CP, with the heir signing in the capacity as donor the donation contract or written donation undertaking;

c/ In case of non-transfer or non-donation of land use rights, the heir or his/her representative, who has a valid paper of authorization, shall file a dossier on inheritance acceptance with the land use right registration office for recording it in the cadastral register for monitoring.

2. If one of the heirs is an overseas Vietnamese who is ineligible for buying a house associated with land use rights in Vietnam while other heirs are eligible for inheriting land use rights under the land law and the estate being land use rights is not yet divided among the heirs, the heirs or their representative, who have a valid paper of authorization, shall file dossiers on inheritance acceptance with the land use right registration office for recording them in the cadastral register for monitoring.

After the estate division is completed, certificates shall be granted to eligible heirs; for the heir who is an overseas Vietnamese ineligible for buying a house associated with land use rights in Vietnam, his/her divided estate portion shall be dealt with under Clause 1 of this Article.

2. Heirs in the cases specified at Point c, Clause 1, and in Clause 2 of this Article may authorize in writing other persons to take care of or temporarily use the land and fulfill their obligations under the land law and relevant laws.

**Article 14.-** Grant of certificates in the case the land has been used by households or individuals since before October 15, 1993, without any of papers specified in Clause 1, Article 50 of the Land Law

1. For households or individuals that are using land on which houses or construction works exist without any of papers specified in Clause 1,

Article 50 of the Land Law but have used such land in a stable manner since before October 15, 1993, and do not fall into one of the cases of land use specified in Clause 4 of this Article, if their land is certified by the commune-level People's Committee to be dispute-free, the following provisions shall be complied with:

a/ At the time of carrying out procedures for the grant of a certificate for the land located in an area for which there already is an approved land use planning or detailed urban construction planning or rural residential spot construction planning (collectively referred to as planning), if the land use is in line with the planning and there is no land recovery decision, for land subject to recovery, a certificate shall be granted to the household or individual using the land.

For land with a house, the land user is not required to pay land use levy for the residential land area currently in use, which, however, must not exceed the limit of land allocated to each household or individual specified in Clause 2, Article 83 and Clause 5, Article 84 of the Land Law at the time of grant of a certificate; the land user shall pay land use levy for the land area in excess of the limit (if any) at the rate specified at Point a, Clause 3, Article 8 of Decree No. 198/2004/ND-CP.

For land with a construction work (other than house), the non-agricultural and agricultural land areas shall be determined based on the actual use status. The land user is not required to pay land use levy for the non-agricultural land area.

For the land area identified as agricultural land, the provisions of Clause 2 of this Article shall be complied with;

b/ If there is no approved planning at the time of carrying out the procedures for the grant of a certificate, the land user shall be granted a certificate under Point a of this Clause;

c/ If the land has been used since before the planning is approved but at the time of grant of a

certificate, the land use is not in line with the approved planning and a competent state agency has not yet issued any document on its intention to recover the land under Article 49 of this Decree, the land user shall be granted a certificate under Point a of this Clause;

d/ If the land has been used since before the planning is approved but at the time of grant of a certificate, the land use is not in line with the approved planning and a competent state agency has issued a document on its intention to recover the land under Article 49 of this Decree, the land user is not entitled to the grant of a certificate but may use the land in its actual status till a land recovery decision is issued;

c/ When the planning is adjusted by a competent state agency and the whole or part of the land plot is in line with the adjusted planning or the planning is cancelled under a decision of a competent state agency, the land user shall be granted a certificate under Point a of this Clause.

2. For households or individuals that are using land classified as agricultural land without any of papers specified in Clause 1, Article 50 of the Land Law, but have used such land in a stable manner since before October 15, 1993, and do not fall into one of the cases of land use specified in Clause 4 of this Article, if their land is certified by the commune-level People's Committee to be dispute-free, they shall be granted a certificate under the following provisions:

a/ The household or individual directly engaged in agricultural production shall be granted a certificate without having to pay land use levy for the land area currently in use, which, however, must not exceed the limit of allocated agricultural land specified in Article 70 of the Land Law and in Clause 1, Article 69 of Decree No. 181/2004/ND-CP; the remaining agricultural land area (if any) shall be changed into the form of land leased from the State;

b/ The household or individual not directly

engaged in agricultural production shall be granted a certificate in the form of lease of land from the State for the land area it/he/she is using.

For agricultural land of the same land plot with a house which is not recognized as residential land, the household or individuals currently using this land shall be granted a certificate as in the case specified at Point a of this Clause.

3. If the land plot has a garden or pond used before December 18, 1980, and for which a certificate has been granted under Clause 2, Article 45 of Decree No. 181/2004/ND-CP and this land plot has been split from a land plot without any of land use right papers specified in Clause 1, 2 or 5, Article 50 of the Land Law, the remaining land area, after the split, may be also granted a certificate under Clause 2, Article 45 of Decree No. 181/2004/ND-CP.

4. Households or individuals are not entitled to the grant of a certificate for the land area they have used since before October 15, 1993, if at the time of starting to use the land they committed one of the following acts of violation (except for the case specified in Clause 5 of this Article):

a/ Violating the detailed construction planning already approved and publicized by a competent agency;

b/ Violating the detailed construction ground planning already approved and publicized, for land areas allocated to organizations or population communities for management;

c/ Illegally encroaching or occupying the protective corridor of a public work already publicized and demarcated;

d/ Illegally encroaching or occupying a roadbed, roadside or pavement for which a construction marking line has been drawn;

e/ Illegally encroaching or occupying land used for public purposes; special-use land or unused land, and other violations deliberately committed despite prevention documents.



5. Households or individuals currently using land in the cases specified in Clause 4 of this Article in accordance with the planning effective at the time of grant of a certificate shall be granted a certificate and pay land use levy at the rates specified at Points a, b and c, Clause 1, Article 15 of this Decree.

**Article 15.-** Grant of certificates in the case the land has been used by households or individuals since October 15, 1993

1. For households or individuals that are using land without any of papers specified in Clause 1, Article 50 of the Land Law but used such land from October 15, 1993, to before July 1, 2004, and do not fall into one of the cases of land use specified in Clause 4 of Article 14 of this Decree, if their land is certified by the commune-level People's Committee to be dispute-free and in line with the approved planning or there is no approved planning at the time of carrying out the procedures for the grant of a certificate, they shall be granted a certificate under the following provisions:

a/ For land with a house, the household or individual shall pay land use levy at the rate specified at Point a, Clause 3, Article 8 of Decree No. 198/2004/ND-CP for the land area in use which, however, must not exceed the limit of residential land allocated to each household or individual specified in Clause 2, Article 83 and Clause 5, Article 84 of the Land Law at the time of grant of a certificate; for the land area in excess of the limit (if any), the household or individual shall pay land use levy at the rate specified at Point b, Clause 3, Article 8 of Decree No. 198/2004/ND-CP;

b/ For land with a construction work (other than house), the non-agricultural and agricultural land areas shall be determined based on the actual use status. The land user shall pay land use levy for the non-agricultural land area at the rate specified at Point a, Clause 3, Article 8 of Decree

No. 198/2004/ND-CP; the land price used for the calculation of the payable land use levy amount is the price of land of the same type used for non-agricultural purpose;

c/ For the land area identified as agricultural land, the provisions of Clause 2 of Article 14 of this Decree shall be complied with.

2. For households or individuals that use land from October 15, 1993, to before July 1, 2004, and have none of papers specified in Clause 1, Article 50 of the Land Law for the whole or part of their land plot, if their land is certified by the commune-level People's Committee to be dispute-free but is not in line with the approved planning, for localities where there is such a planning, or at the time of carrying out the procedures for the grant of a certificate they commit an act of violation specified in Clause 4, Article 14 of this Decree, they are not entitled to the grant of a certificate for the whole or part of the land plot but may temporarily use the land plot in its actual status till a competent state agency issues a land recovery decision.

3. The State neither recognizes land use rights nor grants certificates for and shall recover land areas illegally encroached or occupied or allocated or leased ultra vires from July 1, 2004, on.

**Article 16.-** Grant of certificates in the case the land was allocated ultra vires before July 1, 2004, for which the current land user has paid land use levy in order to use it

For land which was allocated ultra vires and for which its current user has papers proving the payment of land use levy to an agency or organization in order to use it before July 1, 2004, and which is now certified by the commune-level People's Committee to be dispute-free and in line with the planning, the current user shall be granted a certificate under the following provisions:

1. If the land has been used in a stable manner since before October 15, 1993, the current user

shall be granted a certificate for the allocated land area without having to pay land use levy.

2. If the land was used in stable manner from October 15, 1993, to before July 1, 2004,

a/ For the allocated land area of a type of agricultural land or non-agricultural land other than residential land, the current user shall be granted a certificate without having to pay land use levy.

b/ For the land area allocated for use as residential land within the allocated residential land limit specified in Clause 2, Article 83 or Clause 5, Article 84 of the Land Law, the current user shall be granted a certificate without having to pay land use levy; for the remaining land area with a house (if any), the current user shall be granted a certificate and pay land use levy at the rate specified at Point a, Clause 3, Article 8 of Decree No. 198/2004/ND-CP; for the remaining land area without a house (if any) determined as agricultural land in its actual use status, if requesting permission for using it for a non-agricultural purpose, the land user shall be granted a certificate and pay land use levy at the rate specified in Clause 2, Article 5 of Decree No. 17/2006/ND-CP.

**Article 17.-** Provisions on the minimum area allowed for division and the grant of certificates to land plots smaller than the minimum area

1. Provincial-level People's Committees shall prescribe the minimum area allowed for division for each type of land in accordance with the practical conditions of their localities.

2. For land plots smaller than the minimum area prescribed by the provincial-level People's Committee but eligible for the grant of a certificate, their current users shall be granted a certificate; the construction of houses or works on such a land plot must comply with the provincial-level People's Committee's regulations.

3. For a land plot divided without permission into two or more land plots one or more than one of which is or are smaller than the minimum land area prescribed by the provincial-level People's Committee, no certificate shall be granted.

4. Notarial agencies and commune-level People's Committees may not notarize or authenticate the transfer of land use rights for the case of dividing without permission a land plot into two or more land plots one or more than one of which is or are smaller than the minimum land area prescribed by the provincial-level People's Committee.

**Article 18.-** Grant of certificate in the case there is a disparity between area figures obtained from field measurements and those reflected on land use right papers

1. If the figures obtained from field measurements conducted strictly according to technical rules of cadastral measurement show that the area of the land plot is smaller than the area reflected on the land use right paper, a certificate shall be granted according to the figures obtained from the actual measurement, the land user is not entitled to refund of the land use levy amount already paid (if any) for the area smaller than the area reflected on the land use right paper.

2. If the figures obtained from field measurements conducted strictly according to technical rules of cadastral measurement show that the area of the land plot is larger than the area reflected on the land use right paper, this case is settled as follows:

a/ If the present boundary of the land plot sees no change compared to the time of obtaining the land use right paper and there is no dispute with adjacent land users and the area measured in the field at the time of grant of a certificate is larger than the area reflected on the land use right paper, a certificate shall be granted according to the area measured in the field; the land user is not required

to pay land use levy for the area in excess of the area reflected on the land use right paper;

b/ If the present boundary of the land plot sees some change compared to the time of obtaining the land use right paper and the area measured in the field is larger than the area reflected on the land use right paper and the excessive area is certified by the commune-level People's Committees of the locality where the land exists to be reclaimed or taken over from the former land user, to have been used in a stable manner without dispute, a certificate shall be granted for the whole area measured in the field and the land user shall pay the land-related financial liability for the excessive area in accordance with the land law;

c/ If the present boundary of the land plot sees some change compared to the time of obtaining the land use right paper and the area measured on the field is larger than the area recorded on the land use right paper and the excessive area is certified by the commune-level People's Committees of the locality where the land exists to be illegally encroached or occupied, the case shall be dealt with under Clauses 4 and 5, Article 14 or Clause 2, Article 15 of this Decree.

**Article 19.-** Grant of certificates in the case of division or consolidation of land plots

1. A dossier of division of a land plot comprises:

a/ An application for permission to divide or consolidate a land plot(s), made by the land user, if the division or consolidation is requested by the land user and the division or consolidation results from the receipt of transfer of land user rights under Point j and Point k, Clause 1, Article 99 of Decree No. 181/2004/ND-CP;

b/ A certificate or one of land use right papers specified in Clauses 1, 2 and 5, Article 50 of the Land Law; in case of the division or consolidation as a result of the receipt of transfer of land user rights under Point j and Point k, Clause 1, Article

99 of Decree No. 181/2004/ND-CP, a document specified at Point a, Clause 1, Article 140 of Decree No. 181/2004/ND-CP is also required.

2. Division or consolidation of land plots at the request of land users is carried out as follows:

a/ The land user asking for permission to divide or consolidate a land plot(s) shall compile one dossier set and submit it to the provincial-level Natural Resources and Environment Service, for organizations, religious establishments, overseas Vietnamese, foreign organizations or individuals; or to the district-level Natural Resources and Environment Section, for households and individuals;

b/ Immediately on the date of receipt of a complete and valid dossier or the subsequent working date at the latest, the provincial-level Natural Resources and Environment Service or district-level Natural Resources and Environment Section (collectively referred to as Natural Resources and Environment agency) shall send the dossier to its attached land use right registration office for preparation of a cadastral dossier;

c/ If the consolidation of a land plot(s) requires no cadastral measurement, immediately on the date of receipt of a complete and valid dossier or the subsequent working date at the latest, the land user right registration office shall make an extract of the cadastral map and an extract of the cadastral dossier and send them to the Natural Resources and Environment agency of the same level.

If the division or consolidation of a land plot(s) requires cadastral measurement, within seven (7) working days from the date of receipt of a complete and valid dossier, the land user right registration office shall conduct cadastral measurement of the newly divided or consolidated land plot, make an extract of the cadastral map and an extract of the cadastral dossier and send them to the Natural Resources and Environment agency of the same level;

d/ Within three (3) working days from the date

of receipt of an extract of the cadastral map and an extract of the cadastral dossier, the district-level Natural Resources and Environment Section shall submit a report on the case to the district-level People's Committee for consideration and signing of a land use right certificate for the new land plot, or the provincial-level Natural Resources and Environment Service shall, if authorized, sign a certificate for the new land plot or, if not authorized, submit the case to the provincial-level People's Committee for signing of a certificate for the new land plot;

e/ Within three (3) working days as from the date of receipt of the report, the People's Committee at the competent level shall consider, sign and send a certificate to its attached Natural Resources and Environment agency;

f/ Immediately on the date of receipt of a signed certificate or the subsequent working date at the latest, the Natural Resources and Environment agency shall hand over the original of the certificate for the new land plot to the land user concerned; send a copy of the certificate and the original of the withdrawn certificate or one of land use right papers specified in Clauses 1, 2 and 5, Article 50 of the Land Law to its attached land use right registration office; send a notice on the land use change to the land use right registration office of the provincial-level Natural Resources and Environment Service for adjustment of the master cadastral dossier.

3. In case of division of a land plot due to recovery of part of the land plot by the State, based on the land recovery decision, the Natural Resources and Environment agency shall divide the land plot under Points b, c, d, e and f, Clause 2 of this Article.

**Article 20.-** Use of land and grant of certificates with respect to land areas under projects on construction of urban centers, rural residential areas and production and business areas used for different purposes

1. Use of land with respect to land areas under projects on construction of urban centers (including urban residential areas), rural residential areas or production and business areas with different land areas used for different purposes which are other than industrial parks, economic zones or hi-tech parks is provided for as follows:

a/ For land areas used for public purposes, the project owners are not required to pay land use levy and land rent;

b/ For each land area used for proper purposes determined in the investment projects, project owners may opt to pay land use levy under Decree No. 198/2004/ND-CP or pay land rent under Decree No. 142/2005/ND-CP of November 14, 2005, on collection of land rents and water surface rents.

2. If land areas used for the execution of projects on construction of urban centers, rural residential areas or production and business areas embrace many land areas used for different purposes, certificates shall be granted to each land plot in accordance with the approved detailed construction planning and the land law.

**Article 21.-** Withdrawal of illegally granted certificates

1. Upon written conclusion of an investigative or inspection agency that a certificate was granted illegally, the state agency competent to grant certificates shall consider this conclusion and, if finding it correct, issue a decision to withdraw the granted certificate.

2. When a state agency competent to grant certificates detects, through inspection, an illegally granted certificate, it shall notify in writing the case to the inspection agency of the same level for verification; district-level inspection agencies shall conduct verification with respect to certificates granted by district-level People's Committees while provincial-level inspection agencies shall conduct verification with respect to certificates

granted by provincial-level People's Committees or Natural Resources and Environment Services. If, through verification, it is concluded that a certificate was granted illegally, the state agency that has granted the certificate shall issue a decision to withdraw it.

3. An organization or citizen that detects an illegally granted certificate shall send a petition or report on the detection to the state agency that has granted the certificate. The state agency that has granted the certificate shall consider and settle the petition or report under Clause 2 of this Article.

4. Withdrawal of certificates in the cases not specified in Clause 2, Article 42 of Decree No. 181/2004/ND-CP and Clauses 1, 2 and 3 of this Article may only be effected under effective decisions or judgments of People's Courts.

### *Chapter III*

#### **SPECIFIC PROVISIONS ON HANDLING OF SOME CASES OF CHANGE OF LAND USE RIGHTS**

**Article 22.-** Right to lease assets attached to land which is leased by the State and subject to annual payment of land rent

Economic organizations and individuals that lease land from the State and pay land rent on an annual basis may lease out their own assets attached to the leased land; lessees are obliged to use these assets for the purpose determined in the land lease decisions issued by competent state agencies.

**Article 23.-** Land use rights of joint-venture economic organizations jointly set up by domestic and foreign investors upon conversion into economic organizations with 100% foreign capital

1. When joint-venture economic organizations jointly set up by domestic and foreign investors are converted into economic organizations with 100% foreign capital, the land area contributed

as capital to the joint ventures must be switched to the form of land leased by the State and subject to one-off or annual payment of land rent at discretion.

2. The land lease duration under Clause 1 of this Article is determined as follows:

a/ If the land contributed to the joint venture is land used in a stable and permanent manner, the land lease duration is seventy (70) years counting from the date the joint-venture economic organization is converted into an economic organization with 100% foreign capital;

b/ If the land contributed to the joint venture is land used for a given period, the land use duration is the remaining duration of the use period of the land contributed to the joint venture.

3. The Ministry of Finance shall guide the handling of land-related financial liabilities in the case of conversion of joint-venture economic organizations into economic organizations with 100% foreign capital.

**Article 24.-** Land use rights of joint-venture economic organizations jointly set up by domestic and foreign investors and of economic organizations with 100% foreign capital upon receipt of transfer of investment projects

1. Joint-venture economic organizations jointly set up by domestic and foreign investors and economic organizations with 100% foreign capital (in this Article collectively referred to as foreign-invested economic organizations) may receive transfer of projects involving land use from domestic economic organizations in the following cases:

a/ Investment projects on construction of infrastructures in industrial parks, export-processing zones, industrial clusters or other business areas with the same land use regime specified in Clauses 1 and 2, Article 35 of this Decree;

b/ Investment projects in economic zones or hi-tech parks;

c/ Investment projects on construction of infrastructures in urban centers or rural residential areas;

d/ Investment projects on production and business;

e/ Investment projects on construction and commercial operation of houses with completely constructed common-use infrastructures

2. Receipt of transfer of projects involving land use under Clause 1 of this Article shall be carried out in accordance with the real estate business law and the following provisions:

a/ If the transferor of the project is a domestic economic organization that is allocated land by the State with collection of land use levy or receives transfer of land use rights and the paid land use levy amount or the amount paid for the transfer of land use rights is not originated from the state budget, the value of land use rights shall be included in the total value of the project transfer contract; the foreign-invested economic organization shall carry out procedures for leasing land from the State but is not required to pay land rent;

b/ If the transferor of the project is a domestic economic organization that is allocated land by the State with collection of land use levy or receives the transfer of land use rights and the paid land use levy amount or the amount paid for the transfer of land use rights is originated from the state budget, or that is leased land by the State or is allocated land by the State without collection of land use levy for the purpose of contribution of capital in the form of land use rights, the value of land use rights shall not be included in the total value of the project transfer contract; the foreign-invested economic organization shall carry out procedures for leasing land from the State in the form of annual payment of land rent or one-off payment of land rent for the whole lease duration;

c/ If the land of the project transferred under Point a of this Clause is originated from land used for a given period, the land lease duration of the foreign-invested economic organization is the remaining duration of the land use period determined before the transfer of the land; if the land is originated from land used in a stable and permanent manner, the land lease duration is seventy (70) years counting from the date of signing of the project transfer contract and may, upon request, be extended many times, with each extension not exceeding seventy (70) years; the foreign-invested economic organization is not required to pay land rent for the extended duration.

3. A foreign-invested organization which receives transfer of a house construction and business project from a domestic economic organization that is allocated land by the State for stable and permanent use and has paid land use levy not originated from the state budget, when selling houses, is not required to remit to the State the difference between the land use levy and the land rent under Clause 2, Article 81 of Decree No. 181/2004/ND-CP; the buyers of houses associated with land use rights may use land in a stable and permanent manner.

4. The Ministry of Natural Resources and Environment and the Ministry of Finance shall guide the provisions of this Article.

**Article 25.-** Handling of land use rights to land contributed as capital to joint-venture economic organizations by enterprises which are undergoing equitization

1. For state enterprises that have been allocated or leased land by the State but have not yet paid land use levy or land rent, or have been allocated or leased land by the State or have received transfer of land use rights and have paid for the land allocation or lease or the land use right transfer with money originated from the state budget, they may not include the value of land use rights contributed as capital in their value for

equitization; the value of land use rights already contributed to the joint-venture economic organization before equitization are regarded as state capital contributed to this organization.

2. For state enterprises that have been allocated or leased land by the State or have received transfer of land use rights and have paid for the land allocation or lease or the land use right transfer with money not originated from the state budget, they may include the value of land use rights contributed as capital in their value for equitization.

**Article 26.-** Handling of land use rights of non-agricultural cooperatives to land contributed by their members which have switched to lease of land from the State

For non-agricultural cooperatives using land which was contributed by their members, if these cooperatives have switched to lease of land under the Prime Minister's Directive No. 245/TTg of April 22, 1996, on implementation of some urgent tasks in land administration and use by domestic organizations allocated or leased land by the State, and Decree No. 85/CP of December 17, 1996, stipulating the implementation of the Ordinance on Rights and Obligations of Domestic Organizations Assigned or Leased Land by the State, they are now not required to lease land from the State. They have land user's rights and obligations defined in Clauses 1 and 2, Article 110 of the Land Law. Provincial-level Natural Resources and Environment shall cancel land lease contracts with the cooperatives and adjust the granted certificates or grant new ones to these cooperatives.

**Article 27.-** Right to select forms of land use in the case of execution of investment projects on construction of houses for lease

1. Investors that are domestic economic organizations, overseas Vietnamese may select the form of land allocation by the State with payment

of land use levy or the form of land lease with annual payment of land rent for the execution of projects on construction of houses for lease.

2. Investors that are overseas Vietnamese and individuals or economic organizations with foreign investment capital may select the form of lease of land by the State with one-off payment of land rent for the whole lease duration or the form of land lease with annual payment of land rent for the execution of projects on construction of houses for lease.

**Article 28.-** Right to select the form of payment of land use levy or payment of land rent upon land use purpose change in the case investors receive transfer of land use rights for execution of investment projects

1. When an investor receives transfer of land use rights in accordance with the land law for the execution of an investment project in line with land use planning or plan and has to change the land use purpose after receipt of the transfer, the investor may select either of the following two forms:

a/ Use of land in the form regarded as being allocated land with collection of land use levy. In this case, the investor shall pay land use levy in order to change the land use purpose and has the rights and obligations defined in Clause 1 and Clause 2, Article 110 of the Land Law;

b/ Use of land in the form of lease of land from the State. In this case, the investor shall pay land rent to the State and has the rights and obligations defined in Clause 1, Article 111 of the Land Law; has the rights and obligations defined in Article 110 of the Land Law during the period for which the investor has paid land rent in advance under Point b, Clause 2 of this Article for the case the investor has paid land rent in advance for a period of five (05) years or more.

2. The amount of money actually paid by the investor for the receipt of transfer of land use

rights is handled as follows:

a/ It shall be subtracted from the land use levy payable for land use purpose change by the investor to the State for land use under Point a, Clause 1 of this Article;

b/ It shall be regarded as land rent paid in advance by the investor to the State for land lease under Point b, Clause 1 of this Article.

3. The amount of money paid by the investor for the receipt of transfer of land use rights under Clause 2 of this Article shall be determined on the basis of the market price of land use right transfer under normal conditions but must not exceed the amount of money to be compensated or supported in relation to land in the case of land recovery by the State.

4. The amount of money actually paid by the investor for the receipt of transfer of land use rights under Clause 3 of this Article shall be accounted as project investment expenses incurred by the investor.

5. The price of land already paid by the investor in order to receive transfer of land use rights and the price of land for the purpose of land allocation, land lease, land-related compensation or support shall be determined by hiring the consultancy service of land price consultancy organizations established and operating under law. The determined prices shall be appraised by provincial-level Finance Services before being submitted to provincial-level People's Committees for decision.

6. The Ministry of Natural Resources and Environment and the Ministry of Finance shall guide the implementation of the provisions of this Article.

**Article 29.-** Land use duration for non-agricultural land used in a stable and permanent manner in accordance with the land law before July 1, 2004

For non-agricultural land used since before July 1, 2004, by economic organizations and allocated for the purpose of generation of capital for building infrastructure under projects; non-agricultural production and business land of households or individuals that is not allocated or leased by the State, economic organizations, households and individuals may continue use such land in a stable and permanent manner for non-agricultural purposes, are not required to pay land use levy when permitted to change the use purpose of such land to the residence purpose, and are entitled to land-related compensation at the price of residential land upon land recovery by the State.

**Article 30.-** Land use duration for land allocated as compensation upon land recovery by the State to households and individuals for use as non-agricultural production or service provision grounds

For land allocated by the State as compensation upon land recovery by the State to households and individuals for use as non-agricultural production or service provision grounds under Clause 4 and Clause 5, Article 4 of Decree No. 17/2006/ND-CP, these households and individuals may use such land in a stable and permanent manner for non-agricultural production and business purposes, are not required to pay land use levy when permitted to change the use purpose of such land to the residence purpose, and are entitled to land-related compensation at the price of residential land upon land recovery by the State.

**Article 31.-** Detailed provisions on the exercise of the right to mortgage and guarantee with land use rights and assets attached to land

1. Guarantee with land use rights and assets attached to land under the Land Law is understood as mortgage with land use rights for a third party to borrow loans under the Civil Code (below referred to as mortgage with land use rights).



2. Registration of mortgage with land use rights and assets attached to land with respect to households and individuals that have been granted a certificate is provided as follows:

a/ If the mortgage registration dossier is submitted to a district-level land use right registration office, this office shall carry out the mortgage procedures immediately on the date of receipt of a complete and valid dossier; for a dossier submitted after 3 p.m., it shall carry out the mortgage procedures on the subsequent working day at the latest;

b/ If the mortgage registration dossier is submitted to the commune-level People's Committee, the commune-level cadastral officer (who is authorized by the district-level land use right registration office) shall check the dossier; if the dossier is complete and valid, he/she shall carry out the mortgage registration procedures, sign for certification and affix the seal of the commune-level People's Committee immediately on the date of receipt of the dossier or no later than the subsequent working day.

3. Registration of mortgage with land use rights and assets attached to land with respect to households or individuals that have not yet been granted a certificate but have one of papers specified in Clauses 1, 2 and 5, Article 50 of the Land Law shall be conducted at district-level land use right registration offices. Within five (5) working days from the date of receipt of a complete and valid dossier, the district-level land use right registration office shall carry out the mortgage registration procedures.

4. The Ministry of Natural Resources and Environment shall guide the carrying out of mortgage registration procedures mentioned at Point b, Clause 2 of this Article.

**Article 32.-** Land with investment projects on construction of houses for sale or lease executed by overseas Vietnamese, foreign organizations or

foreign individuals

1. Overseas Vietnamese, foreign organizations or individuals (referred to as foreign investors in this Article) may be leased land by the State in the form of lease with one-off payment of land rent or participation of land price biddings held by the State with respect to land for investment projects on construction of houses for sale or lease. The amount of land rent to be paid once for land use in this case is equal to the amount of land use levy payable in the case of allocation of land with collection of land use levy for residential land or is the successful land price bid.

2. The duration of land lease in the case mentioned in Clause 1 of this Article is seventy (70) years and may, upon request, be extended many times, with each extension not exceeding seventy (70) years; foreign investors are not required to pay land rent for the extended duration. If an investor sells houses under a house construction or business project, buyers of houses associated with land use rights may use land in a stable and permanent manner and are not required to pay the amount of money resulting from the difference between leased land and land used in a stable and permanent manner.

3. The Ministry of Natural Resources and Environment shall guide land lease procedures, land use right price bidding procedures and certificate-granting procedures mentioned in this Article.

#### *Chapter IV*

#### **SPECIFIC PROVISIONS ON SOME CASES OF LAND RECOVERY AND LAND-RELATED COMPENSATION AND SUPPORT UPON LAND RECOVERY BY THE STATE**

**Article 33.-** Recovery of land in adjacent areas of provincial-level administrative units

Upon recovery of land in adjacent areas of provinces or centrally run cities, provincial-level People's Committees shall prescribe land prices on the basis of not only economic, social and infrastructure conditions in these areas but also general economic, social and infrastructure conditions and each locality's capability to attract investment in these adjacent areas.

**Article 34.-** Land recovery for the execution of important economic development projects, residential areas, economic development in urban centers and rural residential areas

1. The State shall recover land for the execution of important economic development projects in the following cases:

a/ Important national projects in which investment is decided by the National Assembly;

b/ Important projects in which investment is approved by the Prime Minister.

2. The State shall recover land for the execution of projects on construction of residential areas (including residential area infrastructure projects and housing projects), trade centers and high-class hotels in the following cases:

a/ Projects in existing urban centers demonstrated in land use plannings or detailed urban center construction plannings already approved by competent state agencies, in each of which investment has been approved by the provincial-level People's Committee president;

b/ Projects in expanded areas of existing urban centers or new urban centers demonstrated in land use plannings or detailed urban center construction plannings already approved by competent state agencies;

c/ Projects in existing rural residential areas, expanded urban residential areas or new rural residential areas demonstrated in land use plannings or detailed rural residential spot construction plannings already approved by

competent state agencies

3. The Ministry of Natural Resources and Environment shall guide the implementation of the provisions of Clause 1 and Clause 2 of this Article.

**Article 35.-** Recovery of land for construction of business zones in which the same land use regime is applied

1. Other business zones in which the same land use regime is applied stated in Clause 1, Article 40, and Clause 1, Article 90 of the Land Law include:

a/ General trade and service zones where various trading activities are carried out and services are provided by different business entities;

b/ Tourist resorts connected in terms of infrastructure, forms of business and business entities (excluding eco-tourist resorts);

c/ Outdoor entertainment and leisure zones that can be used by people of all age groups and where mass entertainment and leisure activities are organized by different business entities;

d/ Cattle and poultry raising zones where industrial animal raising methods are applied, complete infrastructure is built and different entities invest in animal raising.

2. Business zones mentioned in Clause 1 of this Article must meet the following conditions:

a/ They have been demonstrated in land use plannings and plans already approved by competent state agencies;

b/ Investment in these zones has been approved by the Prime Minister or decided by the provincial-level People's Committee president or has been demonstrated in the master socio-economic development plan of the province or centrally run city already approved by competent authorities;

c/ Residential land and houses are not arranged in these zones; these zones are not intermingled with residential land and houses.

3. For investment projects on business zones mentioned in Clause 1 of this Article, land shall be recovered and allocated or leased to investors in accordance with the land law.

4. Use of land under projects on construction of business zones mentioned in Clause 1 of this Article is similar to use of land in industrial parks stipulated in Article 84 of Decree No. 181/2004/ND-CP and Clause 7, Article 2 of Decree No. 17/2006/ND-CP.

**Article 36.-** Recovery of land in the case of use of land re-allocated or leased by hi-tech park or economic zone management boards

Hi-tech park and economic zone management boards shall recover land they have re-allocated or leased under Clause 2, Article 91 and Clause 2, Article 92 of the Land Law in the following cases:

1. The land user has been re-allocated or leased land by the hi-tech park or economic zone management board but is not permitted for extension of the land use duration upon its expiration.

2. The land-using organization is dissolved, goes bankrupt, moves elsewhere, reduces or no longer has the land use need and has paid land use levy with money originated from the state budget.

3. The land user voluntarily returns the land under Clause 8, Article 38 of the Land Law.

4. The land user commits an act of violation of the land law specified in Clause 3, 4, 5, 6, 9, 11 or 12, Article 38 of the Land Law.

**Article 37.-** Recovery of land or extension of the land use duration in the case stated in Clause 12, Article 38 of the Land Law

1. Within six (06) months from the date of expiration of the duration stated in Clause 12, Article 38 of the Land Law, competent People's Committees shall decide to recover land in the case of non-extension of the land use duration under Clause 2 of this Article.

2. State agencies competent to allocate or lease land, including hi-tech park or economic zone management boards, may only permit extension of the land use duration upon approval of a competent state agencies in charge of investment management, for land allocated or leased by the State for the execution of investment projects but not put to use or used behind schedule under Clause 12, Article 38 of the Land Law because the investor faces difficulties caused by natural disaster, accident, war, economic or financial crisis or other force majeure events which directly affect the project execution progress.

**Article 38.-** Recovery of land in the case of agricultural land belonging to public land funds of communes, wards or townships

District-level People's Committees shall decide to recover agricultural land belonging to public land funds of communes, wards or townships for use for non-agricultural purposes in accordance with land use plannings and plans already approved by competent state agencies.

**Article 39.-** Recovery of land in the case in which current land users have no right to transfer or lease land use rights, mortgage with or contribute capital in the form of land use rights

For investment projects whereby investors have the duty to reach agreement with current land users on the transfer or lease of land use rights or contribution of capital in the form of land use rights, if current land users have no right to transfer or lease land use rights, mortgage with or contribute capital in the form of land use rights as prescribed by the land law, the State shall conduct the recovery of land for allocation or lease

to investors.

**Article 40.-** Recovery of land in the case the land is subject to recovery by the State but investors take the initiative in proposing and obtain permission to reach agreement with land users and then fail to reach agreement with land users

1. For land for an economic development project which is subject to recovery by the State, if the investor proposes the provincial-level People's Committee to allow it to reach agreement with users of land covered by the project on the transfer of land use rights, lease of land use rights or contribution of capital in the form of land use rights and obtains the latter's written approval of its proposal but past one hundred and eighty (180) days from the date of obtaining the written approval there remain some land users disagreeing with the investor, the People's Committee at the competent level shall decide to recover land areas over which the investor fails to reach agreement with their users; compensation, support and resettlement shall be conducted in accordance with law. Provincial-level People's Committees shall decide to allocate or lease the recovered land areas to investors.

2. Disputes and complaints in the cases specified in Clause 1 of this Article are settled as follows:

a/ Disputes over contracts on agreement on land use rights between land users and investors are settled by People's Courts in accordance with the civil law;

b/ Complaints lodged by land users about administrative decisions or acts related to land recovery are settled under Article 138 of the Land Law, Article 63 and Article 64 of this Decree, and the complaint settlement provisions of the Government's Decree No. 136/2006/ND-CP of November 14, 2006, detailing and guiding the implementation of a number of articles of the Law

on Complaints and Denunciations and the laws amending and supplementing a number of articles of the Law on Complaints and Denunciations (Decree No. 136/2006/ND-CP).

**Article 41.-** Responsibilities of People's Committees at all levels in the case in which investors reach agreement with land users whose land is not subject to recovery by the State

1. Within the scope of their assigned functions and tasks, People's Committees at all levels have the following responsibilities:

a/ To direct the provision of documents on policies and laws and dossiers of land plots in relation to the reaching of agreement;

b/ To preside over the reaching of agreement between the investor and land users at the proposal of one or all of the involved parties;

c/ To direct the carrying out of procedures for land transfer or lease or contribution of capital in the form of land use rights.

2. People's Committees at all levels and state agencies may not issue land recovery decisions or take measures in contravention of law to interfere in the reaching of agreement between investors and land users in the case of land not subject to recovery.

**Article 42.-** Right of land users to make own investment in land areas they are using in the case of land subject to recovery for investment projects for production, business or house construction and business purposes

1. When land users (or users of adjacent land areas) make an application for permission to invest in land areas subject to recovery for investment projects on production and business or house construction and business, if fully meeting the following conditions, they may make own investment or select capital-contributing organizations and individuals for making investment projects:

a/ Their land areas are in line with the land use planning or detailed construction planning and suitable to the size of works already approved by a competent state agency;

b/ They have an investment project in accordance with the investment law;

c/ They are capable of executing the investment project to meet the approved project requirements and schedule.

2. The Ministry of Natural Resources and Environment shall assume the prime responsibility for, and coordinate with the Ministry of Planning and Investment in, guiding land users to make own investment in their land areas subject to recovery for investment projects on production, business or house construction and business.

**Article 43.-** Support for agricultural land intermingled with residential areas and garden and pond land adjacent to residential land in residential areas upon land recovery by the State

Agricultural land intermingled with residential areas and garden and pond land adjacent to residential land in residential areas are eligible for land-related supports under Clause 2, Article 10 of Decree No. 197/2004/ND-CP of December 3, 2004, on compensation, support and resettlement upon land recovery by the State (Decree No. 197/2004/ND-CP) covers the following cases:

1. Land area eligible for support is the whole area of agricultural land, garden and pond land in the same land plot with house which is not recognized as residential land and is located in the following areas:

a/ Within the administrative territory of a ward;

b/ Within a residential area in a township or rural residential area already delimited under a planning approved by a competent state agency; if the residential area in a township or rural residential area has no approved planning yet, the

boundary of outermost land plot with house in the residential area shall be used for support determination purposes.

2. For garden and pond land areas actually used by land users in the same land plot with a lone house, a house built along a canal or a road outside the areas mentioned in Clause 1 of this Article, the land area of each land plot eligible for pecuniary support must not exceed five (05) times the limit of allocated land area specified in Clause 2, Article 83 and Clause 5, Article 84 of the Land Law at the time of issuance of the land recovery decision.

3. For land areas of agricultural land plots adjacent to the boundary of the areas mentioned in Clause 1 of this Article, the area of each land plot eligible for pecuniary support must not exceed five (05) times the limit of allocated land area specified in Clause 2, Article 83 and Clause 5, Article 84 of the Land Law at the time of issuance of the land recovery decision.

4. Provincial-level People's Committees shall specify land areas eligible for pecuniary support in the cases defined in Clause 2 and Clause 3 of this Article.

**Article 44.-** Land-related compensation and support upon land recovery by the State for land used since before October 15, 1993, without any land use right papers.

1. Upon recovery of land used since before October 15, 1993, without a certificate or any of land use right papers specified in Clause 1, Article 50 of the Land Law and certified by the commune-level People's Committee to be dispute-free, land-related compensation and support are provided as follows:

a/ If the used land is land with house and does not fall into the cases of land use specified in Clause 4, Article 14 of this Decree, the land user is entitled to compensation for the land area it/he/she is actually using which must not exceed the limit of

allocated land area specified in Clause 2, Article 83 and Clause 5, Article 84 of the Land Law at the time of issuance of the land recovery decision. The area in excess of the limit of allocated residential land area and the garden and pond land area on the same land plot with house (if any) which is not recognized as residential land is eligible for land-related compensation and support under the provisions applicable to agricultural land intermingled with residential areas;

b/ If the land is currently used for a non-agricultural purpose (other than residential land) and does not fall into the cases of land use specified in Clause 4, Article 14 of this Decree, the land user is entitled to compensation for the land area it/he/she is actually using. If there is also some area currently used for the agricultural purpose on the same land plot, for this area the land user is entitled to land-related compensation and support under the provisions applicable to agricultural land;

c/ If the land is currently used for the agricultural purpose by land users that are households and individuals directly engaged in agricultural production, these land users are entitled to compensation and support for the land areas they are actually using which must not exceed the limit of allocated agricultural land area specified in Clause 70 of the Land Law and Clause 1, Article 69 of Decree No. 181/2004/ND-CP;

d/ If the used land falls into one of cases specified in Clause 4, Article 14 of this Decree or the agricultural land area exceeds the limit of allocated land area specified in Article 70 of the Land Law and Clause 1, Article 69 of Decree No. 181/2004/ND-CP, land users are not entitled to land-related compensation; if the used land is land with house and its user has no other accommodation, this land user is entitled to land-related support or a house for resettlement under regulations of the provincial-level People's Committee.

2. If a land plot has a garden or pond used before December 18, 1980, and for which a certificate was granted under Clause 2, Article 45 of Decree No. 181/2004/ND-CP and this land plot was split from a land plot without any land use right papers specified in Clauses 1, 2 and 5, Article 50 of the Land Law, the remaining land plot, after the split, which is certified by the commune-level People's Committee to be dispute-free is also eligible for land-related compensation and support for residential land within the limit specified in Clause 2, Article 45 of Decree No. 181/2004/ND-CP.

**Article 45.-** Land-related compensation and support upon land recovery by the State for land used since October 15, 1993, without any land use right papers

1. Upon recovery of land used for some time from October 15, 1993, to July 1, 2004, without a certificate or any land use right paper specified in Clause 1, Article 50 of the Land Law, and certified by the commune-level People's Committees to be dispute-free, land-related compensation and support are provided as follows:

a/ If the used land is land with house and does not fall into the cases of land use specified in Clause 4, Article 14 of this Decree, the current land user is entitled to compensation for the land area it/he/she is actually using which must not exceed the limit of allocated land area specified in Clause 2, Article 83 and Clause 5, Article 84 of the Land Law at the time of issuance of the land recovery decision, and the land use levy payable at the rate specified at Point a, Clause 3, Article 8 of Decree No. 198/2004/ND-CP shall be subtracted from the compensated amount. The area in excess of the limit of allocated residential land area and the garden and pond land area on the same land plot with house which is not recognized as residential land is eligible for land-related compensation and support under the

provisions applicable to agricultural land;

b/ If the land is currently used for a non-agricultural purpose (other than residential land) and does not fall into the cases of land use specified in Clause 4, Article 14 of this Decree, the current land user is entitled to compensation for the land area it/he/she is actually using, but the land use levy payable at the rate specified at Point a, Clause 3, Article 8 of Decree No. 198/2004/ND-CP shall be subtracted from the compensated amount. The land price used for calculating the land use levy is the price of land of the same type used for a non-agricultural purpose. If there is also some area currently used for an agricultural purpose on the same land plot, for this area the land user is entitled to land-related compensation and support under the provisions applicable to agricultural land;

c/ If the used land is of a type of agricultural land and land users are households and individuals directly engaged in agricultural production, these land users are entitled to compensation and support for the land areas they are actually using which must not exceed the limit of allocated agricultural land area specified in Article 70 of the Land Law and Clause 1, Article 69 of Decree No. 181/2004/ND-CP;

d/ If the used land falls into one of cases specified in Clause 4, Article 14 of this Decree or the agricultural land area exceeds the limit of allocated land area specified in Article 70 of the Land Law and Clause 1, Article 69 of Decree No. 181/2004/ND-CP, land users are not entitled to land-related compensation; if the used land is land with house and its user has no other accommodation, this land user is entitled to benefits specified in Clause 2, Article 14 of Decree No. 197/2004/ND-CP.

2. For land illegally encroached or occupied or allocated or leased ultra vires since July 1, 2004, persons who committed acts of illegal encroachment or occupation or were allocated or

leased land ultra vires are not entitled to land-related compensation upon land recovery.

**Article 46.-** Land-related compensation and support upon recovery by the State of land which was allocated ultra vires before July 1, 2004, and for which land users have paid land use levy for land use but have not yet been granted a certificate

For land which was allocated before July 1, 2004, and for which current land users have paid land use levy for land use but have not yet been granted a certificate, land-related compensation and support are provided as follows:

1. Land users that have used the land since before October 15, 1993, are entitled to land-related compensation for the allocated land area and type.

2. Land users that used the land from October 15, 1993, to before July 1, 2004, are entitled to land-related compensation and support as follows:

a/ Land-related compensation and support for the allocated land area which is agricultural land or non-agricultural land other than residential land; for the residential land area within the limit of allocated land area specified in Clause 2, Article 83 and Clause 5, Article 84 of the Land Law;

b/ Land-related compensation and support for the allocated land area which is residential land within the limit of allocated land area specified in Clause 2, Article 83 and Clause 5, Article 84 of the Land Law, less the land use levy payable at the rate specified at Point a, Clause 3, Article 8 of Decree No. 198/2004/ND-CP.

**Article 47.-** Land-related compensation and support upon land recovery by the State in the case in which areas obtained from field measurement are different from those reflected on land use right papers

Upon recovery of land, if the area obtained from field measurement is different from that reflected on the land use right paper,

compensation is paid as follows:

1. If the area obtained from field measurement is smaller than that reflected on the land use right paper, compensation shall be paid based on the area obtained from field measurement.

2. If the area obtained from field measurement is larger than that reflected on the land use right paper because the previous measurement was incorrect or the land user did not declare the whole area upon registration but the whole land plot is clearly demarcated and free from disputes with adjacent land users and does not result from illegal encroachment and occupation, compensation shall be paid based on the area obtained from field measurement.

3. If the area obtained from field measurement is larger than that reflected on the land use right paper, certified by the commune-level People's Committee of the place where exists the land that the surplus area results from reclamation and was transferred from the former land user, the land area has been used in a stable and permanent manner and is dispute-free, compensation shall be paid based on the area obtained from field measurement.

4. If the area obtained from field measurement is larger than that reflected on the land use right paper as a result of illegal encroachment and occupation, the surplus area is not eligible for compensation.

**Article 48.-** Compensation in the form of residential land upon recovery of agricultural land by the State

When households and individuals directly engaged in agricultural production have more than 30% of their agricultural land areas recovered by the State without compensation in the form of corresponding agricultural land and do not want to receive compensation in the form of land for use as ground for production or provision of non-agricultural services under Clause 4, Article 4 of Decree No. 17/2006/ND-CP, they are entitled to

allocation of residential land subject to land use levy in a resettlement area or in a residential area in accordance with planning.

Provincial-level People's Committees shall prescribe the area of allocated land on the basis of local land funds and the recovered land area of each household or individual.

The price of allocated residential land is equal to that of the recovered agricultural land of the corresponding type plus the residential area infrastructure cost but does not exceed the price of residential land under similar conditions at the time of land recovery prescribed and publicized by the provincial-level People's Committee.

#### *Chapter V*

### **ORDER AND PROCEDURES FOR LAND RECOVERY AND COMPENSATION, SUPPORT AND RESETTLEMENT UPON LAND RECOVERY BY THE STATE**

**Article 49.-** Determination and publicization of land recovery guidelines

1. Determination of land recovery guidelines (for the case of land recovery according to planning) or issuance of written approval of investment location (for the case of land recovery according to project) shall be effected on the following grounds:

a/ Land use plannings and plans or urban center construction plannings or rural residential spot construction plannings already approved by competent state agencies in accordance with law;

b/ Land use needs expressed in investment project dossiers in accordance with the investment law and construction law;

For an investment project using state budget capital, the land use need is determined according to the project approval decision issued by a competent agency; for an investment project using non-state budget capital, the land use need is



determined according to the land use need assessment document issued by the provincial-level Natural Resources and Environment Service under Point b, Clause 1, Article 30 of Decree No. 181/2004/ND-CP; for a project on construction of a religious establishment, the land use need is determined according to the decision issued by the provincial-level People's Committee;

c/ Land recovery cases specified at Points a, b, c, d, e, g and h, Clause 1, and Points a, c and d, Clause 2, Article 36 of Decree No. 181/2004/ND-CP, Clause 3, Article 2 of Decree No. 17/2006/ND-CP, and Article 34 and Article 35 of this Decree.

2. Provincial-level or district-level People's Committees shall issue documents on land recovery guidelines or written approvals of investment locations mentioned in Clause 1 of this Article.

3. District-level People's Committees of localities where exists the land to be recovered shall direct the publicization of land recovery guidelines, regulations on land recovery, compensation, support and resettlement upon recovery of land for defense and security purposes, for the sake of national interests, public interest and economic development; commune-level People's Committees of localities where exists the land to be recovered shall post up land recovery guidelines at their offices and public meeting places in the areas where exists the land to be recovered, and make public announcements on commune-level radio broadcasting networks (in localities where exist radio broadcasting networks).

**Article 50.-** Preparation of cadastral dossiers for land plots to be recovered

1. On the basis of documents of People's Committees mentioned in Clause 2, Article 49 of this Decree, Natural Resources and Environment agencies shall prepare (in localities where land use right registration offices have not yet been set up) or direct land use right registration offices

of the same level to prepare cadastral dossiers for land plots to be recovered under the following provisions:

a/ Adjusting cadastral maps to suit the actual status and make extracts of cadastral maps, for places where official cadastral maps are available, or conduct cadastral measurements, for places where official cadastral maps are not yet available;

b/ Completing and extracting cadastral dossiers (cadastral registers) and sending them to the organization in charge of compensation and ground clearance;

c/ Drawing up a list of land plots to be recovered, stating the code number of the map, code numbers of land plots, names of land users, areas of land plot portions with the same use purposes, and land use purposes.

2. For a land plot requiring cadastral measurement, the district-level People's Committee of the place where exists the land to be recovered shall notify in writing the concerned land user of the cadastral measurement, who shall comply with the notification, cooperate with measurement officers and facilitate the measurement to determine the actual status of the land plot.

3. In case of recovery of land according to projects, expenses for the adjustment of cadastral maps, extraction of cadastral maps, cadastral measurement and extraction of cadastral dossiers shall be incurred by investment project owners; in case of recovery of land according to planning, these expenses shall be incurred by the land fund development organization.

**Article 51.-** Making, evaluation and approval of overall plans on compensation, support and resettlement

1. The organization in charge of compensation and ground clearance (with the participation of investors' representatives) shall make an overall plan on compensation, support and resettlement (below referred to as overall plan) on the basis of

available data and documents provided by the Natural Resources and Environment agency, and submit one (01) set to the provincial-level Finance Service or district-level Finance Section (collectively referred to as finance agency) for evaluation. An overall plan contains the following principal details:

- a/ Grounds for making the plan;
- b/ General data on land areas of different types and grades, for agricultural land, code numbers of maps, code numbers of land plots; and estimated value of assets on the land;
- c/ General data on the number of households, household members and laborers in the land area to be recovered, clearly stating the number of laborers to change jobs and the number of households to be resettled;
- d/ Estimated compensation and support amounts and projected site and area of the land or houses for resettlement, mode of resettlement;
- e/ Proposed measures to create jobs for inhabitants and training plan to help them change their jobs and occupations;
- f/ A list of to be-relocated works of the State, organizations, religious establishments and population communities and their sizes, and proposed new locations;
- g/ The number of graves to be relocated and proposed new locations;
- h/ Estimated fund for the implementation of the plan;
- i/ Funding source;
- j/ Plan implementation schedule.

2. Within fifteen (15) days from the date of receipt of an overall plan, the finance agency shall coordinate with the Natural Resources and Environment agency and concerned agencies in evaluating the overall plan and submit it to the People's Committee of the same level for consideration and approval.

3. Within seven (7) days from the date of receipt of the submission report of the finance agency, the People's Committee which has issued the land recovery guideline or approved the investment location shall consider and sign a decision approving the overall plan.

#### **Article 52.- Notification of land recovery**

1. After the overall plan is approved, the organization in charge of compensation and ground clearance shall notify the concerned land users of the reason for land recovery; estimated compensation, support and resettlement amounts; job change and employment measures, and time of relocation and hand-over of the recovered land stated in the overall plan.

2. Pursuant to the provisions of law, land users have the right to make comments, proposals or requests to the organization in charge of compensation and ground clearance to explain the notified contents specified in Clause 1 of this Article.

#### **Article 53.- Land recovery decision**

1. The issuance of a land recovery decision is as follows:

a/ After twenty (20) days from the date of notification specified in Clause 1, Article 52 of this Decree, the Natural Resources and Environment agency shall submit to the People's Committee of the same level a land recovery decision;

b/ Within five (5) working days from the date of receipt of the submission report of the Natural Resources and Environment agency of the same level, the People's Committee shall consider and sign the land recovery decision;

c/ If the recovered land area covers both a land plot falling under the recovering competence of the provincial-level People's Committee and a land plot falling under the recovering competence of the district-level People's Committee, the

provincial-level People's Committee shall issue a common decision to recover all land plots on the land area and issue decisions to recover land plots under its recovering competence;

d/ Within fifteen (15) days from the date of receipt of the common recovery decision of the provincial-level People's Committee mentioned at Point c of this Clause, the district-level People's Committee shall issue decisions to recover land plots falling under its recovering competence.

2. Land recovery decisions include:

a/ Decision issued by a provincial-level People's Committee on the general recovery of all land plots on the land area, stating the total land area to be recovered, names and addresses of land users, and the list of recovered land plots;

b/ Decision issued by a provincial-level or district-level People's Committee according to its competence on the recovery of each land plot, stating the name and address of the person with land to be recovered, the code number of the map or the code number of the cadastral measurement document, the code number of the land plot, type of land and area (according to the cadastral dossier and official area data re-determined in the course of making the compensation and ground clearance plan).

3. Land recovery decisions must be sent to persons with land to be recovered and posted up at the offices of commune-level People's Committees of places where exists the to be-recovered land throughout the duration from the date of receipt of the decisions by the commune-level People's Committee to the completion of the land recovery.

**Article 54.-** Settlement of complaints about land recovery decisions

1. Complaints shall be settled under Article 138 of the Land Law, Article 63 and Article 64 of this Decree and the complaint settlement provisions of Decree No. 136/2006/ND-CP.

2. Pending the issuance of a complaint

settlement decision, the land recovery decision must be still executed. If the state agency competent to settle complaints concludes that the land recovery is illegal, the execution of the land recovery decision must be stopped; the state agency which has issued the land recovery decision shall issue a decision to cancel the issued land recovery decision and pay compensation for any damage caused by the land recovery decision. If the state agency competent to settle complaints concludes that the land recovery is lawful, the person with land to be recovered shall comply with the land recovery decision.

**Article 55.-** Declaration, inventory and identification of the origin of land

After obtaining a land recovery decision, the organization in charge of compensation and ground clearance shall organize the declaration and inventory of land and assets attached to land, and identify the origin of land according to the following order and procedures:

1. The person with land to be recovered makes declaration according to a form issued and guided by the organization in charge of compensation and ground clearance; a declaration must have the following principal contents:

a/ Area and type of land (land use purpose), origin, starting time of land use, available land use right papers;

b/ Quantity of houses, types and grades of houses, time of use, and other works constructed on the land; quantity, kinds and ages of perennial trees; area under annual trees, their kinds, yield and output; area under aquaculture or salt making, yield and output of aquatic products or salt produced;

c/ Number of household members (based on permanent residence registration, long-term temporary residence registration in the locality), number of laborers affected by the land recovery (for the agricultural sector, they include persons

directly engaged in agricultural production; silviculture, aquaculture or salt production on land plots to be recovered; for the non-agricultural sector, they include contractual employees of registered employers); their resettlement and job change aspirations, if any;

d/ Number of graves to be relocated.

2. The organization in charge of compensation and ground clearance shall check the declared contents and inventorize land and assets attached to land, and identify the origin of land in the following order:

a/ Checking in the field the land area in the case of conflicts or claims about area figures; checking and counting damaged assets and comparing them with the land user's declaration. The field check and count must be joined by a representative of the commune-level People's Committees of the place where the to be-recovered land exists and its user lives. The check and count result document must be signed by the checking and counting person, the person with land to be recovered (or a lawfully authorized person), the person with damaged assets (or a lawfully authorized person), a commune-level cadastral officer, representatives of the Natural Resources and Environment Section and the leadership of the organization in charge of compensation and ground clearance;

b/ Working with the land use right registration office and the commune-level People's Committee of the place where exists the land to identify the origin of land use and cases eligible for compensation, support or resettlement.

**Article 56.-** Making, evaluation and approval of compensation, support and resettlement plans

The organization in charge of compensation and ground clearance (with the participation of representatives of the investor and households with land to be recovered) shall make and submit specific compensation, support and resettlement plans (below referred to as compensation plans)

under Decree No. 197/2004/ND-CP and Decree No. 17/2006/ND-CP according to the following order and procedures:

1. Making a compensation, support and resettlement plan:

a/ Within sixty (60) days from the date of completion of the measurement, check and count, the organization in charge of compensation and ground clearance shall make a compensation, support and resettlement plan;

b/ A compensation, support and resettlement plan has the following details:

- The name and address of the person with land to be recovered;
- Area, type and grade of the land (for agricultural land), position, origin of the land to be recovered; quantity, amount or percentage of residual quality of damaged assets;
- Grounds for calculation of the compensation or support money, such as the land price, house or work price, number of household members, number of laborers of working age and number of social allowance beneficiaries;
- Amount of compensation and support money;
- Resettlement;
- Relocation of works of the State, organizations, religious establishments and population communities;
- Relocation of graves.

2. Collection of comments on the compensation, support and resettlement plan:

a/ Posting up the plan at the office of the commune-level People's Committee and public meeting places in the residential area where exists the land to be recovered for persons with land to be recovered and concerned persons to give opinions;

b/ The posting must be recorded in writing and the written record must be certified by representatives of the commune-level People's

Committee, the commune-level Fatherland Front Committee and persons with land to be recovered;

c/ The period for posting up the plan and receiving opinions is at least twenty (20) days from the first date of posting.

3. Finalization of the plan:

a/ At the end of the period of posting and receipt of opinions, the organization in charge of compensation and ground clearance shall sum up in writing the received opinions, the numbers of opinions for, against and different from the plan; finalize the plan and send it together with a written sum-up of received opinions to the finance agency for evaluation;

b/ If there are many opinions against the plan, the organization in charge of compensation and ground clearance shall give explanations or review and adjust the plan before sending it to the finance agency for evaluation.

4. Evaluation and submission of the plan for approval:

a/ Within fifteen (15) days from the date of receipt of the plan, the finance agency shall evaluate and submit it to the People's Committee of the same level for approval:

b/ When it is necessary to further finalize the plan, the organization in charge of compensation and ground clearance shall finalize the plan and re-send it to the finance agency. Within seven (07) days from the date of second receipt of the plan, the finance agency shall submit it to the People's Committee of the same level for approval.

5. Approval of the plan:

a/ Within fifteen (15) days from the date of receipt of the submission report of the finance agency, the People's Committee of the same level shall consider and decide to approve the plan.

b/ If the plan, which is subject to approval by the district-level People's Committee, contains the land price used for the calculation of compensation and support money which is higher than the land

price decided and publicized by the provincial-level People's Committee, the district-level People's Committee shall report it to the provincial-level People's Committee and may approve the compensation plan only after obtaining the provincial-level People's Committee's approval of the land price.

**Article 57.-** Publicization of compensation, support and resettlement plans

Within three (03) days from the date of receipt of the approved compensation, support and resettlement plan, the organization in charge of compensation and ground clearance shall coordinate with the commune-level People's Committee in publicizing and publicly posting up the plan approval decision at the office of the commune-level People's Committee and public meeting places in the residential area where exists the land to be recovered; shall send the compensation, support and resettlement decision to the person with land to be recovered, stating the compensation and support amount, the allocation of a house or land for resettlement (if any), time and place of payment of compensation and support money, and the time of hand-over of the recovered land to the organization in charge of compensation and ground clearance.

**Article 58.-** Payment of compensation and support money and resettlement

1. After five days from the date of sending a written notice on the compensation, support and resettlement plan to the person with land to be recovered, the organization in charge of compensation and ground clearance shall pay compensation and support money. If a person who is entitled to compensation and support money wishes to authorize another person to receive the money on his/her behalf, he/she shall make a paper of authorization as prescribed by law.

2. In case of resettlement, the organization in charge of compensation and ground clearance shall, before conducting ground clearance, hand

over a house or residential land and a residential land use right or house ownership certificate to the person to be resettled. In case the organization in charge of compensation and ground clearance and a person to be resettled reach an agreement on the receipt of a house or residential land after ground clearance, the written agreement signed by the two parties shall be complied with.

3. If a person with land recovered refuses to receive compensation and support money or a house or residential land, the organization in charge of compensation and ground clearance shall transfer the money into a separate bank account and keep the house and land for resettlement in its original conditions as a basis for subsequent settlement of complaint (if any).

4. Arising issues (if any) in relation to the price of the recovered land after the issuance of decisions approving the compensation, support and resettlement plans are handled as follows:

a/ If the compensation, support and resettlement were completed before the effective date of Decree No. 197/2004/ND-CP, these issues are not subject to the application of Decree No. 197/2004/ND-CP and Decree No. 17/2006/ND-CP;

b/ In case of late payment or late receipt of compensation and support money, these issues shall be settled under Clause 2, Article 9 of Decree No. 197/2004/ND-CP and Clause 2, Article 4 of Decree No. 17/2006/ND-CP;

c/ If the approval decisions were issued before the effective date of Decree No. 197/2004/ND-CP but the payment of compensation and support money or the resettlement was not yet made and then the land price increased higher than the approved one, the land price shall be adjusted under Clause 2, Article 9 of Decree No. 197/2004/ND-CP and Clause 2, Article 4 of Decree No. 17/2006/ND-CP.

**Article 59.-** Time of hand-over of recovered land

Within twenty (20) days from the date the organization in charge of compensation and ground clearance completely pays the compensation and support money to the person with recovered land according to the approved plan, the person with recovered land shall hand over his/her land to the organization.

**Article 60.-** Enforced recovery of land

1. Recovery of land prescribed in Clause 3, Article 39 of the Land Law may be enforced when all the following conditions are met:

a/ The order and procedures for land recovery, compensation, support and resettlement have been properly complied with under Articles 49, 50, 51, 52, 53, 54, 55, 56, 57, 58 and 59 of this Decree;

b/ After thirty (30) days from the planned time of hand-over of land under Clause 59 of this Decree but the person with land to be recovered fails to hand over the land to the organization in charge of compensation and ground clearance;

c/ After representatives of the organization in charge of compensation and ground clearance, the commune-level People's Committee and Fatherland Front Committee of the place where exists the land to be recovered have persuaded the person with land to be recovered but the latter still fails to hand over the recovered land to the State;

d/ The enforcement decision issued lawfully by the People's Committee at a competent level has taken effect;

e/ The person subject to enforcement has received the enforcement decision. If he/she refuses to receive the enforcement decision, the organization in charge of compensation and ground clearance shall coordinate with the commune-level People's Committee in posting up the enforcement decision at the office of the commune-level People's Committee of the place where exists the land to be recovered.

2. After fifteen (15) days from the date of hand-over of the enforcement decision or posting of

the enforcement decision under Point e, Clause 1 of this Article, if the person subject to enforcement fails to hand over the land, the district-level People's Committee shall direct and organize a force to enforce the land recovery in accordance with law.

**Article 61.-** Settlement of complaints about compensation, support and resettlement decisions or decisions on enforcement of land recovery

Complaints about compensation, support and resettlement decisions or decisions on enforcement of land recovery shall be settled under Article 138 of the Land Law, Article 63 and Article 64 of this Decree and the complaint settlement provisions of Decree No. 136/2006/ND-CP.

**Article 62.-** Separation of the content of compensation, support and resettlement into a separate sub-project and responsibilities for organizing land recovery, compensation, support and resettlement with respect to investment projects of ministries and branches

1. On the basis of the area of recovered land for the execution of an investment project, the agency competent to approve the investment project may decide to separate the content of compensation, support and resettlement into a separate sub-project for independent execution.

2. Provincial-level People's Committees shall direct land recovery, compensation, support and resettlement work of investment projects of ministries, ministerial-level agencies, government-attached agencies, economic groups, corporations and centrally run business units (referred to as ministries and branches in this Article) for which land is to be recovered by the State.

Ministries and branches with investment projects shall coordinate with provincial-level People's Committees and the organization in charge of compensation and ground clearance and ensure funds for compensation, support and resettlement work according to regulations.

## **Chapter VI**

### **ADDITIONAL PROVISIONS ON THE SETTLEMENT OF LAND-RELATED COMPLAINTS**

**Article 63.-** Order of settlement of complaints about administrative decisions and acts of district-level People's Committee presidents

1. Within ninety (90) days from the date a district-level People's Committee president issues an administrative decision or takes an administrative act related to land administration defined in Article 162 of Decree No. 181/2004/ND-CP, a person with related interests and obligations who disagrees with that administrative decision or act may file a written complaint with the district-level People's Committee.

2. The district-level People's Committee president shall settle complaints within the time limit prescribed in the Law on Complaints and Denunciations.

Settlement decisions issued by district-level People's Committee presidents must be publicly announced and sent to complainants and other persons with related interests and obligations.

3. Within forty five (45) days from the date of receipt of the settlement decision of the district-level People's Committee president, the complainant who disagrees with that settlement decision may file a lawsuit with a People's Court or lodge a complaint with the provincial-level People's Committee.

For a complaint filed with the provincial-level People's Committee, the provincial-level People's Committee president shall settle it within the time limit prescribed in the Law on Complaints and Denunciations. Complaint settlement decisions issued by provincial-level People's Committee presidents are second-time settlement decisions, must be publicly announced and sent to complainants and other persons with related interests and obligations.

4. Agencies receiving written complaints shall record them into the complaint monitoring and settlement register.

**Article 64.-** Order of settlement of complaints about administrative decisions and acts of provincial-level People's Committee presidents

1. Within thirty (30) days from the date a provincial-level People's Committee president issues an administrative decision or takes an administrative act related to land administration defined in Article 162 of Decree No. 181/2004/ND-CP, a person with related interests and obligations who disagrees with that administrative decision or act may file a written complaint with the provincial-level People's Committee.

2. The provincial-level People's Committee president shall settle complaints within the time limit prescribed in the Law on Complaints and Denunciations.

Settlement decisions issued by provincial-level People's Committee presidents must be publicly announced and sent to complainants and other persons with related interests and obligations,

3. Within forty five (45) days from the date of receipt of the settlement decision of the provincial-level People's Committee president, the complainant who disagrees with that settlement decision may file a lawsuit with a People's Court.

4. Agencies receiving written complaints shall record them into the complaint monitoring and settlement register.

**Article 65.-** Settlement of complaints about administrative decisions or acts related to land not falling into the cases specified in Article 63 and Article 64 of this Decree

Complaints about administrative acts taken by cadres or public employees of commune, ward or township People's Committees; administrative acts taken by cadres and public

employees of district-level Natural Resources and Environment Sections; administrative acts taken by cadres and public employees of the offices of People's Committees of rural districts, urban districts, towns or provincial cities; administrative acts taken by cadres and public employees of provincial-level Natural Resources and Environment Services, administrative acts taken by cadres and public employees of the offices of People's Committees of provinces or centrally run cities; administrative decisions issued by provincial-level Natural Resources and Environment Services and administrative decisions issued or administrative acts taken by district-level or provincial-level People's Committee presidents which do not fall into the cases specified in Article 63 and Article 64 of this Decree, shall be settled in accordance with the law on complaints and denunciations.

## Chapter VII

### IMPLEMENTATION PROVISIONS

**Article 66.-** Deadline for uniformly conducting land use right transactions with certificates

1. From January 1, 2008, only land users who have certificates may exercise the rights to convert, transfer, lease, sub-lease or donate land use rights, mortgage with, or contribute capital in the form of, land use rights, except for the case stated in Clause 2 of this Article.

2. For land users who submit dossiers of application for certificates in accordance with law before November 1, 2007, but are not yet granted by competent state agencies certificates, if they have one of land use right papers specified in Clauses 1, 2 and 5, Article 50 of the Land Law, they may still exercise the rights to convert, transfer, lease, sub-lease or donate land use rights, mortgage with, or contribute capital in the form of, land use rights.



**Article 67.- Implementation effect**

1. This Decree takes effect 15 days after its publication in "CONG BAO."

2. To annul the following provisions:

a/ Point e, Clause 1 and Point b, Clause 2 of Article 36; Clause 3 of Article 42; Clause 2 of Article 48; Clause 1, Clause 2, Clause 3 and Clause 4 of Article 80; Article 81, Article 130, Article 145, Article 163, Article 164, Article 165 and Article 184 of Decree No. 181/2004/ND-CP;

b/ Clause 6 and Clause 8 of Article 8; Articles 41, 42, 47 and 49, paragraph 2, Clause 2, Article 50 of Decree No. 197/2004/ND-CP;

c/ References in Article 145 in Clause 3, Article 116, at Point b and Point c, Clause 1, Article 117 of Decree No. 181/2004/ND-CP, are replaced with relevant references in Article 19 of this Decree;

d/ Clause 13 and Clause 14 of Article 2, paragraph 1, paragraph 2 and paragraph 3, Clause 4, Article 5 of Decree No. 17/2006/ND-CP (Clause 4, Article 15 of Decree No. 198/2004/ND-CP already supplemented under Clause 4, Article 5 of Decree No. 17/2006/ND-CP).

**Article 68.- Implementation responsibilities**

1. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, presidents of provincial/municipal People's Committees, and heads of concerned agencies shall implement this Decision.

2. The Ministry of Natural Resources and Environment and the Ministry of Finance shall guide the settlement of problems arising in the course of implementation of this Decree according to their competence or propose amendments and supplements to this Decree to the Government.

*On behalf of the Government*  
*Prime Minister*  
**NGUYEN TAN DUNG**